IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2495 OF 2005

Smt. Vanita Barku Mali ..Petitioner

versus

The State of Maharashtra & Ors. ..Respondents

Mr. R. V. Bansode for the Petitioner.

Mr. A. S. Gadkari, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &

V. M. KANADE, JJ.

DATE : 30TH NOVEMBER,2005

ORAL ORDER :

1. This matter was heard by us, yesterday, at a great length. However, in order to enable the Advocate for the petitioner to make his submissions further, copy of panchnama was given to him by the learned APP.

2. According to the petitioner this is a case of murder. He heavily relied upon the photographs of the deceased taken by the police. According to him the injuries on the person of the deceased are caused by sharp cutting instrument and they could not be caused in any other manner, therefore, this is not a case of accident. Earlier, also he had made similar submissions, therefore we had asked the learned APP to provide him with a copy of the panchnama. As stated above, the said was furnished to him.

3. This panchnama and the other submissions of the learned APP, clearly show, that it is a case of accident. The panchnama is immediately drawn by the police. It shows that the place of death is near Kalam Road on a bridge called Dahiwali Bridge. The bridge is 600 ft. in length and 24 ft. in width. On both the sides of the bridge, there are cement blocks in which the iron angles and iron railings have been fixed. On the 42nd cement block from the south, red colour of the motorcycle is found. The iron angle is bent because of the dash given by the motorcycle. Thereafter, cement block Nos. 44, 45 and 46 also show that the motorcycle had brushed

against those cement blocks, then iron angle cement block No. 47 was also found bent and the colour of the motor cycle was also there on the block along with the blood. Then between cement block Nos. 50 and 51 blood stains were found and body of the deceased was found there. The motorcycle is lying about 14 ft. away from his body. The glass of the motorcycle i.e. either of the rear view mirrors or of the front light is found scattered. The front wheel of the motorcycle is completely bent, inner iron rings are bent and broken. The tyres are seriously damaged. Mudguards on the right side are broken. The silencer on the right side is brushed. The plastic dicky is brushed and red colour is also having scratches. There are brush marks on the silencer and the petrol tank was also bent inside as a result of dash against iron angles. The blood was also found scattered on the road.

4. All these things noted in the panchnama and the photographs of the body, clearly prove, that it is a case of accident. If it was a case of murder, as argued by the counsel for the petitioner, then there is no explanation how and why the murderers would cause so much damage to the motorcycle and the

damage would be reflected on the bridge, so extensively, as noted in the panchnama.

5. The learned APP also pointed out that it was a police patrolling party at mid night, who noticed the accident and who of their own accord started enquiries. Therefore, we do not find any substance in the contentions and submission of the petitioner. The matter is rightly treated as a case of accident, therefore the petition is dismissed.

(D.G. DESHPANDE, J.)

(V. M. KANADE, J.)